

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KENDYL WELCH,

No C-14-5223 TEH (PR)

Plaintiff.

ORDER OF TRANSFER

v.

CLIFF ALLENBY, et al.,

Defendants.

Plaintiff is a civil detainee at the Coalinga State Hospital ("Coalinga") proceeding pro se. He is detained pursuant to California's Sexually Violent Predator Act ("SVPA"). He has filed a complaint under 42 U.S.C. § 1983, complaining about the conditions of his confinement at Coalinga. Defendants are officials of Coalinga and of the California Department of Corrections and Rehabilitation in Sacramento. Both Coalinga and Sacramento lie within the venue of the United States District Court for the Eastern District of California. Venue for this case is therefore proper in the Eastern District. See 28 U.S.C. § 1391.

Petitioner also complains about the validity of his assessment as a sexually violent predator under the SVPA, which

1 assessment took place in San Francisco County. Challenges to the
2 assessment itself are the province of a habeas petition, not a civil
3 rights action, because they implicate the validity of his detention.
4 See Hill v. McDonough, 547 U.S. 573, 579 (2006) (challenges to the
5 lawfulness of confinement or to particulars affecting its duration
6 are the province of habeas corpus); Nelson v. Sandritter, 351 F.2d
7 284, 285 (9th Cir. 1965) (constitutionality of state civil
8 commitment proceedings are challenged in federal habeas corpus once
9 state remedies have been exhausted). Plaintiff may challenge the
10 validity of his assessment in this court, but he must do so by way
11 of a habeas petition filed in a separate action from the instant
12 civil rights case, after exhausting state judicial remedies.

13 Accordingly, and in the interests of justice, this case is
14 TRANSFERRED to the United States District Court for the Eastern
15 District of California. See 28 U.S.C. 1404(a), 1406(a). In light
16 of this transfer, the pending motion (dkt. 3) to proceed in forma
17 pauperis is deferred to the Eastern District.

18 The Clerk shall transfer this matter, terminate all
19 pending motions as moot and close the file.

20 IT IS SO ORDERED.

21 DATED 01/21/2015

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THELTON E. HENDERSON
United States District Judge